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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/753,906	01/07/2004	Jason M. Mayeroff	MAYEROFF03-03	5647

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EXAMINER

NGUYEN, KIM T

ART UNIT PAPER NUMBER

3713

DATE MAILED: 04/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/753,906

Applicant(s)

MAYEROFF, JASON M.

Examiner

Kim Nguyen

Art Unit

3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 15-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

Examiner acknowledges receipt of the amendment on 1/10/05.

According to the amendment, claims 1-14 have been canceled, and claims 15-21 are pending.

### *Claim Objections*

1. Claims 15-16 and 18-19 are objected to because of the following informalities:
  - a) In claim 15, line 11; and claim 18, line 11, the claimed limitation “the secondary game” should be corrected to “a secondary game”.
  - b) In claim 15, line 17, the claimed limitation “the selection” should be corrected to “a selection”.
  - c) In claim 15, line 18; and claim 18, lines 19-20, the claimed limitation “a selected secondary game award” should be corrected to “the selected secondary game award”.
  - d) In claim 16, line 2, the claimed limitation “secondary game awards” should be corrected to “the secondary game awards”.
  - e) In claim 19, line 2, the claimed limitation “indicator” should be corrected to “said indicator”.

Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 15-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaminkow (US 2005/0026678) in view of Maya et al (US 2004/0077403).

a. As per claim 15-17, Kaminkow discloses an electronic gaming apparatus comprising a processor; a primary game display; means for a player to make a wager; the processor randomly select and display indicia at the primary game display, if the outcome is a winning outcome, issue an award (Fig. 7; paragraphs 0029, 0031 and 0035); Kaminkow further discloses that a mechanical secondary game display separated from the primary game display displays awards prior to the selection of the secondary game trigger condition, and that the secondary game identifies the selection of award and awards the player would have been known in the art (paragraphs 0005). Kaminkow does not explicitly disclose randomly select between the secondary trigger and no trigger condition independently of the primary game outcome. However, Maya discloses the claimed limitation (last 5 lines of paragraph 0077). It would have been obvious to a person of ordinary skill in the art at the time the invention

was made to randomly select triggering a secondary game without considering the primary game outcome in the game apparatus of Kaminkow in order to randomly provide bonus game even to the non-winning player in the primary game to encourage play to the player who loses the primary game.

b. As per claim 18-21, refer to discussion in claims 15-17 above.

***Response to Arguments***

4. Applicant's arguments in the amendment on 1/10/05 have been considered but are moot in view of the new ground(s) of rejection.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim Nguyen whose telephone number is (571) 272-4441. The examiner can normally be reached on Monday-Thursday from 8:30AM to 5:00PM ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai, can be reached on (571) 272-7147. The central official fax number is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148.

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Date: March 30, 2005

  
**KIM NGUYEN**  
**PRIMARY EXAMINER**